MT LEGISLATIVE HISTORY

Chapter 412 1973

Bill H 128 S _____ Original bill & hist. NOC

H. Committee on Pub. Hea, wdj "Sf". S. Committee on Pub. Hea., wdj.

Hearing Date(s)	C	Hearing Date(s)	C
1/15 (in)	C	2/16? (in)	C
1/18	✓C		C
	C		C
Date Out 1/18	C	3/5	✓C

Did this bill originate in an interim committee? ___Yes ✓No

Committee _____ Report _____

MONTANA STATE PHARMACEUTICAL ASSOCIATION

House Bill No. 128

Mr. Chairman and Members of the Committee:

My name is Roderic R. Gudgel. I am the executive secretary of the Montana State Pharmaceutical Association and represent that organization in this appearance before you.

If enacted, House Bill No. 128 would result in similarity between the administrative provisions of the Montana Dangerous Drug Act and those of the Comprehensive Drug Abuse and Control Act of 1970 (P.L. 91-513), but would not alter the criminal offenses, procedures or penalties of the Montana law. This similarity would simplify compliance with the then related State and Federal registration, record keeping and dispensing requirements by all registrant practitioners.

The existing definition of the word "drug" is deficient and would be corrected by this enactment.

All narcotics, marihuana, and dangerous drugs which are subject to control would be classified into five schedules, with each schedule having its own criteria for placement. This classification system would enable the state board of pharmacists to add, delete, or reschedule drugs based upon new scientific findings and the abuse potential of the drug.

This enactment would establish a closed regulatory system for the legitimate handlers of drugs (i.e., manufacturers, distributors, pharmacies, physicians, dentists, podiatrists, veterinarians) in order to better prevent illicit dangerous drug diversion in Montana. The creation of this closed system would require that drug handlers register with the state board of pharmacists, maintain records, and make biennial inventories of all dangerous drug stocks in the same manner as is required by P.L. 91-513.

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January 18, 1973

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE PROCEEDINGS:

A meeting of the Public Health, Welfare and Safety Committee was held Thursday, January 18, 1973 at 10:30 a.m. in Room 428A with Chairman Bob E. Lee presiding. All members were present except J. O. Asbjornson, Barbara K. Bennetts, and William Zimmer, who were excused.

HOUSE BILL # 120 -- SPONSOR: Rep. J. D. Lynch. Rep. Lynch explained that the bill was a welfare cleanup bill. PROPONENTS: Jack Carlson of the Welfare Department; Steve Coldiron of Just Us, Inc.; and Harley Evenson. No opponents. Discussion followed.

HOUSE JOINT RESOLUTION # 11 -- SPONSOR: Rep. Gary Marbut. Two proponents, Jerry Willis, President of the Montana Association for Retarded Children and Adults, Inc. and Ken Rohyans, Executive Director of the same, gave short talks in support of this resolution. There were no opponents. Questions followed.

HOUSE BILL # 128 -- SPONSOR: Rep. Dan Yardley. Rep. Yardley gave a speech on this bill. Another proponent, Roderic R. Gudgel of the Montana State Pharmaceutical Association, gave a short speech in which he offered several amendments. Vernon Huffman was also in favor of the measure and he also offered some amendments. Copies of both are enclosed. No opponents. Questions followed.

HOUSE BILL # 140 -- SPONSOR: Rep. Joe Brand. John Wilson, of the State Department of Health and Enviornmental Sciences and Tom Twichel of the Montana Funeral Directors Association both gave speeches in support of this bill. There were no opponents. Questions followed.

Witnesses were excused and the following action was taken: HB # 120: Rep. Hall moved that HB # 120 DO NOT PASS. Motion carried unanimously. HB # 140: Rep. Hall moved that this bill DO PASS. Motion carried unanimously. HJR # 11: Rep. Marbut moved that this resolution DO PASS. Motion carried unanimously. HB # 128: Rep. Hall moved that a subcommittee be appointed to look into this bill to make sure that provisions relating to the criminal applications of the Dangerous Drug Act were not affected by the new bill. Reps. Yardley, Hall, and Olson were appointed to such a subcommittee.

Meeting was adjourned.

Chairman Robert E. Lee

Debbie Jakovac
Secretary

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Senate

cine of Helena, who was speaking for Repr. Norman, who was unable to be present to introduce his bill, HB458.

Chairman Flynn next asked for other proponents and they included Al Sampson of the Mont. Firemen's Assoc. There were no opponents to speak against the bill and questions were then raised by committee.

Sen. McKeon suggested an amendment that would not limit the compensation to firemen only, as it was brought out that other public employees might suffer similar seizures when in the course of duty. Members agreed on the amendment, and Sen. McKeon made the motion to ADOPT THE AMENDMENTS TO HB458. His motion was seconded by Sen. Zody and was carried. It was noted that Sen. Lowe voted "Nay".

Sen. McKeon moved that HB458 BE CONCURRED IN AS AMENDED. His motion was seconded by Sen. Hall and voting was unanimous.

Members then held another discussion of HB94 and it was felt that the controls mentioned in the testimony were already covered. Sen. Lowe moved that HB94 BE NOT CONCURRED IN. Sen. Cochrane seconded the motion and motion was carried. Sen. McKeon cast a "Nay" vote.

Sen. Bollinger moved that HB128 BE CONCURRED IN, motion being seconded by Sen. Zody and motion was carried.

Sen. Cochrane moved that HB207 BE NOT CONCURRED IN and his motion was seconded by Sen. Lowe. Motion carried, however it was noted that Sen. McKeon cast a "Nay" vote.

It was noted that HB200 had been heard on the floor and was being held over until the next legislative session in the hopes the two factions could resolve their own differences in an amended bill.

Sen. Bollinger moved the meeting adjourn and it was seconded by Sen. Lowe; motion carried.

Elmer Flynn

Elmer Flynn Chairman

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and interest, as a tax against the lot or parcel of real estate to which sewer service was furnished and payment for which is delinquent.

Approved: March 21, 1973.

CHAPTER NO. 412

An Act to Amend the Dangerous Drug Act, By Adopting Substantially the Definitions, Procedures, Standards and Schedules and the Regulatory Provisions of the Uniform Controlled Substances Act As Recommended by the National Conference of Commissioners on Uniform State Laws; By Excluding From Such Schedules Non-narcotic Drugs Which May Be Lawfully Sold Over the Counter Without A Prescription; By Repealing Sections 54-129, 54-130, 54-131, and 66-1504.1, R.C.M. 1947; Amending Sections 54-132 and 54-133, R.C.M. 1947, By Deleting References to Section 54-131, R.C.M. 1947; Amending Section 54-132 By Deleting the Provision Regarding Deferred Imposition of Sentence; Providing For Severability if any Part of This Act Is Determined Unconstitutional; and Repealing All Acts and Parts of Acts In Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. As used in this act:

(1) "Administer" means the direct application of a dangerous drug, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) a practitioner (or by his authorized agent), or

(b) the patient or research subject at the direction and in the presence of the practitioner.

(2) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

(3) "Bureau" means the bureau of narcotics and dangerous drugs, United States department of justice, or its successor agency.

(4) "Dangerous drug" means a drug, substance or immediate precursor in schedules I through V hereinafter set forth.

(5) "Counterfeit substance" means a dangerous drug which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint,

number of device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the drug.

(6) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a dangerous drug, whether or not there is an agency relationship.

(7) "Dispense" means to deliver a dangerous drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the drug for that delivery.

(8) "Dispenser" means a practitioner who dispenses.

(9) "Distribute" means to deliver other than by administering or dispensing a dangerous drug.

(10) "Distributor" means a person who distributes.

(11) "Drug" means:

(a) substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals;

(c) substances (other than food) intended to affect the structure or any function of the body of man or animals; and

(d) substances intended for use as a component of any article specified in clause (a), (b), or (c) of this subsection. It does not include devices or their components, parts or accessories.

(12) "Immediate precursor" means a substance which the board of pharmacists has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a dangerous drug, the control of which is necessary to prevent, curtail, or limit manufacture.

(13) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a dangerous drug, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the drug or labeling or

relabeling of its container, except that this term does not include the preparation or compounding of a dangerous drug by an individual for his own use or the preparation, compounding, packaging, or labeling of a dangerous drug:

(a) by a practitioner as an incident to his administering or dispensing of a dangerous drug in the course of his professional practice, or

(b) by a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(14) "Marihuana" means all parts of the plant cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(15) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(b) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the drugs referred to in clause (a), but not including the isoquinoline alkaloids, of opium;

(c) opium poppy and poppy straw;

(d) coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these drugs, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(16) "Opiate" means any drug having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as a dangerous drug under section 2 of this act, the

dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(17) "Opium poppy" means the plant of the species papaver somniforum l., except its seeds.

(18) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(19) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(20) "Practitioner" means:

(a) a physician, dentist, veterinarian, scientific investigator, or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a dangerous drug in the course of professional practice or research in this state;

(b) a pharmacy or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a dangerous drug in the course of professional practice or research in this state.

(21) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a substance or drug regulated under the provisions of this act.

(22) "State," when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America.

(23) "Ultimate user" means a person who lawfully possesses a dangerous drug for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

(24) The term "prescription" shall be given the meaning it has in section 66-1502 (n), R.C.M. 1947.

Section 2. (1) The board of pharmacists shall administer this act and may add drugs to or delete or reschedule all drugs enumerated in the schedules in section 5, 7, 9, 11, or 13 of this act, pursuant to the rule-making procedures of the Montana Administrative Procedure Act. In making a determination regarding a drug, the board of pharmacists shall consider the following:

(a) the actual or relative potential for abuse;

(b) the scientific evidence of its pharmacological effect, if known;

(c) the state of current scientific knowledge regarding the drug;

(d) the history and current pattern of abuse;

(e) the scope, duration, and significance of abuse;

(f) the risk to the public health;

(g) the potential of the drug to produce psychic or physiological dependence liability; and

(h) whether the drug is an immediate precursor of a drug already controlled under this act.

(2) After considering the factors enumerated in subsection (1) the board of pharmacists shall make findings with respect thereto and if it finds the drug has a potential for abuse it shall designate such drug a dangerous drug in the manner set forth in the Montana Administrative Procedure Act.

(3) If the board of pharmacists designates a drug as an immediate precursor, drugs which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

(4) If any drug is designated, rescheduled, or deleted as a "controlled substance" under federal law and notice thereof is given to the board of pharmacists, the board of pharmacists shall similarly control the drug under this act after the expiration of thirty (30) days from publication in the federal register of a final order designating a drug as a "controlled substance" or rescheduling or deleting a drug, unless within that thirty (30) day period, the board of pharmacists objects to inclusion, rescheduling, or deletion. In that case, the board of pharmacists shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the board of pharmacists shall publish its decision, which shall be final unless altered thereafter by the board or by statute. Upon publication of objection to inclusion, rescheduling, or deletion under this act by the board of pharmacists, control under this act is stayed until the board of pharmacists publishes its decision.

(5) Authority to control under this section does not extend to distilled spirits, liquor, wine, malt beverages, beer, portar, ale, stout or tobacco.

(6) The board shall exclude any non-narcotic drug from a schedule if such drug may, under the Federal Food, Drug, and

Cosmetic Act and section 27-716 (a) (2) of the Montana Food, Drug, and Cosmetic Act, be lawfully sold over the counter without a prescription.

Section 3. The dangerous drugs listed or to be listed in the schedules in sections 5, 7, 9, 11 and 13 are included by whatever official, common, usual, chemical, or trade name designated.

Section 4. The board of pharmacists shall place a drug in schedule I if it finds that the drug:

(1) has high potential for abuse; and

(2) has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

Section 5. (1) The dangerous drugs listed in this section are included in schedule I.

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation: acetylmethadol, allylprodine, alphacetylmethadol, alphameprodine, alphamethadol, benzethidine, betacetylmethadol, betameprodine, betamethadol, betaprodine, clonitazene, dextromoramide, dextrorphan, diampromide, diethylthiambutene, dimenoxadol, dimepheptanol, dimethylthiambutene, dioxaphetyl butyrate, dipipanone, ethylmethylthiambutene, etonitazene, etoxeridine, furethidine, hydroxypethidine, ketobemidone, levomoramide, levophenacylmorphan, morpheridine, noracymethadol, norlevorphanol, normethadone, norpipanone, phenadoxone, phenampromide, phenomorphan, phenoperidine, piritramide, proheptazine, properidine, racemoramide, and trimeperidine.

(3) Any of the following opium derivaties, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation; acetorphine, acetyldihydrocodeine, benzylmorphine, codeine methylbromide, codeine-n-oxide, cyprenorphine, desomorphine, dihydromorphine, etorphine, heroin, hydromorphinol, methyl-desorphine, methyldihydromorphine, morphine methylbromide, morphine methylsulfonate, morphine-n-oxide, myrophine, nicocodeine, nicomorphine, normorphine, phoclodine, and thebacon.

(4) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic drugs, their salts, isomers and salts of isomers, unless specifically excepted,

whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation: 3, 4-methylenedioxy amphetamine, 5-methoxy-3, 4-methylenedioxy amphetamine, 3, 4, 5-trimethoxy amphetamine, bufotenine, diethyltryptamine, dimethyltryptamine, 4-methyl 1-2, 5-dimethoxylamphetamine, ibogaine, lysergic acid diethylamide, marihuana, mescaline, peyote, n-ethyl-3-piperidyl benzilate, n-methyl-3-piperidyl benzilate, psilocybin, psilocyn, tetrahydrocannabinols, 2, 5-dimethoxyamphetamine.

Section 6. The board of pharmacists shall place a drug in schedule II if it finds that:

(1) the drug has high potential for abuse;

(2) the drug has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and

(3) the abuse of the drug may lead to severe psychic or physical dependence.

Section 7. (1) The dangerous drugs listed in this section are included in schedule II.

(2) Any of the following drugs, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(a) opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(b) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the drugs referred to in paragraph (a), but not including the isoquinoline alkaloids of opium;

(c) opium poppy and poppy straw;

(d) coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative or preparation thereof which is chemically equivalent or identical with any of these drugs, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(3) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation: alphaprodine, anileridine, bezitramide, dihydrocodeine, diphenoxylate, fentanyl, isomethadone, levomethorphan, levorphanol, metazocine, methadone, methadone—interme-

diate, 4-cyano-2-dimethyl-amino-4, 4-diphenyl butane, moramide—intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane- carboxylic acid, pethidine, pethidine—intermediate—a, 4-cyano-1-methyl-4-phenylpiperidine, pethidine—intermediate—b, ethyl-4-phenylpiperidine-4-carboxylate, pethidine—intermediate—c, 1—methyl-4-phenylpiperidine-4-carboxylic acid, phenazocine, piminodine, racemethorphan, and racemorphan.

(4) Any material, compound, mixture, or preparation which contains any quantity of the following drugs having a potential for abuse associated with a stimulant effect on the central nervous system:

(a) amphetamine, its salts, optical isomers, and salts of its optical isomers;

(b) phenmetrazine and its salts;

(c) any drug which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers;

(d) methylphenidate.

Section 8. The board of pharmacists shall place a drug in schedule III if it finds that:

(1) the drug has a potential for abuse less than the drugs listed in schedules I and II;

(2) the drug has currently accepted medical use in treatment in the United States; and

(3) abuse of the drug may lead to moderate or low physical dependence or high psychological dependence.

Section 9. (1) The dangerous drugs listed in this section are included in schedule III.

(2) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following drugs having a potential for abuse associated with a depressant effect on the central nervous system:

(a) any drug which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those drugs which are specifically listed in other schedules;

(b) chlorhexadol;

(c) glutethimide;

(d) lysergic acid;

(e) lysergic acid amide;

(f) methyprylon;

(g) phencyclidine;

(h) sulfondiethylmethane;

(i) sulfonethylmethane; and

(j) sulfonmethane.

(3) Nalorphine.

(4) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(a) not more than one and eight tenths (1.8) grams of codeine, or any of its salts, per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(b) not more than one and eight tenths (1.8) grams of codeine, or any of its salts, per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with one (1) or more active, non-narcotic ingredients in recognized therapeutic amounts;

(c) not more than three hundred (300) milligrams of dehydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(d) not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one (1) or more active, non-narcotic ingredients in recognized therapeutic amounts;

(e) not more than one and eight tenths (1.8) grams of dihydrocodeine, or any of its salts, per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with one (1) or more active, non-narcotic ingredients in recognized therapeutic amounts;

(f) not more than three hundred (300) milligrams of ethylmorphine, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one (1) or more ingredients in recognized therapeutic amounts;

(g) not more than five hundred (500) milligrams of opium per one hundred (100) milliliters or per one hundred (100) grams, or not more than twenty-five (25) milligrams per dosage unit,

with one (1) or more active, non-narcotic ingredients in recognized therapeutic amounts;

(h) not more than fifty (50) milligrams of morphine, or any of its salts, per one hundred (100) milliliters or per one hundred (100) grams with one (1) or more active, non-narcotic ingredients in recognized therapeutic amounts.

(5) The board of pharmacists may except by rule any compound, mixture, or preparation containing any stimulant or depressant drug listed in subsections (2) and (3) from the application of all or any part of this act if the compound, mixture, or preparation contains one (1) or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the drugs which have a stimulant or depressant effect on the central nervous system.

Section 10. The board of pharmacists shall place a drug in schedule IV if it finds that:

(1) the drug has a low potential for abuse relative to drugs in schedule III;

(2) the drug has currently accepted medical use in treatment in the United States; and

(3) abuse of the drug may lead to limited physical dependence or psychological dependence relative to the drugs in schedule III.

Section 11. (1) The dangerous drugs listed in this section are included in schedule IV.

(2) Any material, compound, mixture, or preparation which contains any quantity of the following drugs having a potential for abuse associated with a depressant effect on the central nervous system: barbital, chloral betaine, choloral hydrate, ethchlorvynol, ethinamate, methohexital, meprobamate, methylphenobarbital, paraldehyde, petrichloral, and phenobarbital.

(3) The board of pharmacists may except by rule any compound, mixture, or preparation containing any depressant drug listed in subsection (2) from the application of all or any part of this act if the compound, mixture, or preparation contains one (1) or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the drugs which have a depressant effect on the central nervous system.

Section 12. The board of pharmacists shall place a drug in schedule V if it finds that:

(1) the drug has low potential for abuse relative to the controlled drugs listed in schedule IV;

(2) the drug has currently accepted medical use in treatment in the United States; and

(3) the drug has limited physical dependence or psychological dependence liability relative to the dangerous drugs listed in schedule IV.

Section 13. (1) The dangerous drugs listed in this section are included in schedule V.

(2) Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contains one (1) or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

(a) not more than two hundred (200) milligrams of codeine, or any of its salts, per one hundred (100) milliliters or per one hundred (100) grams;

(b) not more than two and five tenths (2.5) milligrams of diphenoxylate and not less than twenty-five (25) micrograms of atropine sulfate per dosage unit.

Section 14. The board of pharmacists shall revise and republish the schedules of dangerous drugs annually.

Section 15. The board of pharmacists shall promulgate rules for its administration which are not inconsistent with this act and specifically shall levy and collect reasonable registration fees relating to the registration and control of the manufacture, distribution, and dispensing of dangerous drugs within the state; provided, however, the maximum fee for any registration shall not exceed one hundred dollars ($100) per year.

Section 16. (1) Every person who manufactures, distributes, or dispenses any dangerous drug within this state must, on and after January 1, 1974, obtain annually a registration issued by the board of pharmacists in accordance with its rules.

(2) Persons registered by the board of pharmacists under this act to manufacture, distribute, dispense, or conduct research with dangerous drugs may possess, manufacture, distribute, dispense, or conduct research with those drugs to the extent author-

ized by their registration and in conformity with the other provisions of this act.

(3) The following persons need not register and may lawfully possess dangerous drugs under this act:

(a) an agent or employee of any registered manufacturer, distributor, or dispenser of any dangerous drug if he is acting in the usual course of his business or employment;

(b) a common or contract carrier or warehouseman, or an employee thereof, whose possession of any dangerous drug is in the usual course of business or employment;

(c) an ultimate user or a person in possession of any dangerous drug pursuant to a lawful order of a practitioner or in lawful possession of a schedule V drug;

(d) officers and employees of the state or a political subdivision of the state, while acting in the course of their official duties.

(4) The board of pharmacists may waive by rule the requirement for registration of certain manufacturers, distributors, or dispensers if it finds it consistent with the public health and safety.

(5) A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses dangerous drugs.

(6) The board of pharamacists may inspect the establishment of a registrant or applicant for registration.

Section 17. (1) The board of pharmacists shall register an applicant to manufacture or distribute dangerous drugs included in sections 5, 7, 9, 11, and 13 unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the board of pharmacists shall consider the following factors:

(a) maintenance of effective controls against diversion of dangerous drugs into other than legitimate medical, scientific, or industrial channels;

(b) compliance with applicable state and local law;

(c) any convictions of the applicant under any federal and state laws relating to any dangerous drug;

(d) past experience in the manufacture or distribution of dangerous drugs, and the existence in the applicant's establishment of effective controls against diversion;

(e) furnishing by the applicant of false or fraudulent material in any application filed under this act;

(f) suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense dangerous drugs as authorized by federal law; and

(g) any other factors relevant to and consistent with the public health and safety.

(2) Registration under subsection (1) does not entitle a registrant to manufacture and distribute dangerous drugs in schedule I or II other than those specified in the registration.

(3) Practitioners shall be registered to dispense any dangerous drugs or to conduct research with dangerous drugs in schedules II through V if they are authorized to dispense or conduct research under the law of this state. The board of pharmacists need not require separate registration for practitioners engaging in research with non-narcotic dangerous drugs in schedules II through V where the registrant is already registered under this act in another capacity. Practitioners registered under federal law to conduct research with schedule I drugs may conduct research with schedule I drugs within this state upon furnishing the board of pharmacists evidence of that federal registration.

(4) Compliance by manufacturers and distributors with the provisions of the federal law respecting registration (excluding fees) entitles them to be registered under this act.

Section 18. (1) A registration under section 16 to manufacture, distribute, or dispense a dangerous drug may be suspended or revoked by the board of pharmacists upon a finding that the registrant:

(a) has furnished false or fraudulent material information in any application filed under this act;

(b) has been convicted of a felony under any state or federal law relating to any dangerous drug or controlled substance; or

(c) has had his federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances.

(2) The board of pharmacists may limit revocation or suspension of a registration to the particular dangerous drug with respect to which grounds for revocation or suspension exist.

(3) If the board of pharmacists suspends or revokes a registration, all dangerous drugs owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of

drugs under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable drugs and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all dangerous drugs may be forfeited to the state.

(4) The board of pharmacists shall promptly notify the bureau of all orders suspending or revoking registration and all forfeitures of dangerous drugs.

Section 19. (1) Before denying, suspending or revoking a registration, or refusing a renewal of registration, the board of pharmacists shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended, or why the renewal should not be refused. The order to show cause shall contain a statement of the basis therefor and shall require the applicant or registrant to appear before the board of pharmacists at a time and place not less than thirty (30) days after the date of service of the order, but in the case of a denial or renewal of registration the show cause order shall be served not later than thirty (30) days before the expiration of the registration. These proceedings shall be conducted without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing.

(2) The board of pharmacists may suspend, without an order to show cause, any registration simultaneously with the institution of proceedings under section 17 or where renewal of registration is refused, if it finds that there is an imminent danger to the public health or safety which warrants such action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the board of pharmacists or dissolved by a court of competent jurisdiction.

Section 20. Persons registered to manufacture, distribute, or dispense dangerous drugs under this act shall keep records and maintain inventories in conformance with the record-keeping and inventory requirements of federal law and with any additional rules the board of pharmacists issues.

Section 21. Dangerous drugs in schedule I and II shall be distributed by a registrant to another registrant only pursuant to an order form. Compliance with the provisions of federal law respecting order forms shall be deemed compliance with this section, unless the board of pharmacists prescribes particular forms to be used.

Section 22. (1) No dangerous drug in schedule II may be dispensed without the written prescription of a practitioner.

(2) In emergency situations, as defined by rule of the board of pharmacists, schedule II drugs may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of section 19. No prescription for a schedule II drug may be refilled.

(3) A dangerous drug included in schedule III or IV, which is a prescription drug as determined under the federal or Montana food, drug and cosmetic acts shall not be dispensed without a written or oral prescription of a practitioner. The prescription shall not be filled or refilled more than six (6) months after the date thereof or be refilled more than five (5) times, unless renewed by the practitioner.

(4) A dangerous drug included in schedule V shall not be distributed or dispensed other than for a medical purpose.

Section 23. (1) The board of pharmacists shall carry out educational programs designed to prevent and deter misuse and abuse of dangerous drugs. In connection with these programs it may:

(a) promote better recognition of the problems of misuse and abuse of dangerous drugs within the regulated industry and among interested groups and organizations;

(b) assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of dangerous drugs;

(c) consult with interested groups and organizations to aid them in solving administrative and organizational problems;

(d) evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of dangerous drugs;

(e) disseminate the results of research on misuse and abuse of dangerous drugs to promote a better public understanding of what problems exist and what can be done to combat them; and

(f) assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of dangerous drugs.

(2) The board of pharmacists shall encourage research on misuse and abuse of dangerous drugs. In connection with the research, and in furtherance of the enforcement of this act, it may:

(a) establish methods to assess accurately the effects of dangerous drugs and identify and characterize those with potential for abuse;

(b) make studies and undertake programs of research to:

(i) develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of this act;

(ii) determine patterns of misuse and abuse of dangerous drugs and the social effects thereof; and

(iii) improve methods for preventing, predicting, understanding and dealing with the misuse and abuse of dangerous drugs; and

(c) enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse and abuse of dangerous drugs.

(3) The board of pharmacists may authorize persons engaged in research on the use and effects of dangerous drugs to withhold the names and other identifying characteristics of individuals who are the subjects of the research. Persons who obtain this authorization are not compelled in any civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of research for which the authorization was obtained.

(4) The board of pharmacists may authorize the possession and distribution of dangerous drugs by persons engaged in research. Persons who obtain this authorization are exempt from state prosecution for possession and distribution of dangerous drugs to the extent of the authorization.

Section 24. Section 54-132, R.C.M. 1947, is amended to read as follows:

"54-132. **Criminal sale of dangerous drugs.** (a) A person commits the offense of a criminal sale of dangerous drugs if he sells, manufactures, prepares, cultivates, compounds or processes any dangerous drug as defined in this act.

(b) A person convicted of criminal sale of dangerous drugs shall be imprisoned in the state prison for a term not less than one (1) year nor more than life."

Section 25. (1) Prosecution for any violation of law occuring prior to the effective date of this act is not affected or abated by this act.

(2) Civil seizures or forfeitures and injunctive proceedings

commenced prior to the effective date of this act are not affected by this act.

(3) All administrative proceedings pending under prior laws which are superseded by this act shall be continued and brought to a final determination in accord with the laws and rules in effect prior to the effective date of the act. Any drug controlled under prior law which is not listed within schedules I through V is automatically controlled without further proceedings and shall be listed in the appropriate schedule.

(4) The board of pharmacists shall initially permit persons to register who own or operate any establishment engaged in the manufacture, distribution, or dispensing of any dangerous drug prior to the effective date of this act and who are registered or licensed by the state.

(5) This act applies to violations of law, seizures and forfeiture, injunctive proceedings, administrative proceedings and investigations which occur following its effective date.

Section 26. Section 54-133, R.C.M. 1947, is amended to read as follows:

"54-133. **Criminal possession of dangerous drugs.** (a) A person commits the offense of criminal possession of dangerous drugs if he possesses any dangerous drug as defined in this act.

(b) A person convicted of criminal possession of dangerous drugs, other than criminal possession of marihuana and its derivatives as hereinafter provided, shall be imprisoned by imprisonment in the state prison not to exceed five (5) years. Any person convicted of a criminal possession of marihuana or its derivatives in an amount, the aggregate weight of which does not exceed sixty (60) grams of marihuana, or one (1) gram of hashish, shall, for the first offense, be guilty of a misdemeanor and is punishable by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in the county jail not to exceed one (1) year, or by both such fine and imprisonment. A person convicted of a second, or subsequent, offense under this subsection is punishable by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in the county jail not to exceed one (1) year or in the state prison not to exceed three (3) years or by both such fine and imprisonment.

(c) A person of the age of twenty-one (21) years or under, convicted of a first violation under this section shall be presumed to be entitled to a deferred imposition of sentence. Jurisdiction under this section shall be exclusively in the district court."

Section 27. Any orders and rules promulgated under any law affected by this act and in effect on the effective date of this

act and not in conflict with it continue in effect until modified, superseded or repealed.

Section 28. This act shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this act among those other states which enact it.

Section 29. Practitioners who fail or refuse to register as required by this act, shall be guilty of a misdemeanor and upon conviction therefor may be fined not to exceed one thousand dollars ($1,000) or imprisoned in the county jail not to exceed one (1) year, or both.

Section 30. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 31. The laws specified below are repealed except with respect to rights and duties which matured, penalties which were incurred and proceedings which were begun before the effective date of this act: sections 54-129, 54-130, 54-131 and 66-1504.1, R.C.M. 1947.

Section 32. All acts and parts of acts in conflict herewith are hereby repealed.

Approved: March 21, 1973.

CHAPTER NO. 413

An Act Authorizing Cities and Towns to Hold Elections on the Issuance of General Obligation Bond Issue Without There First Having Been Filed a Petition Calling Such Election; Authorizing the Issuance of Revenue Bonds Without an Election; Amending Sections 11-2301, 11-2306 and 11-2404, R.C.M. 1947; and Repealing Section 11-2307, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-2301, R.C.M. 1947, is amended to read as follows:

"11-2301. **Creation of indebtedness—submission to taxpayers.** Whenever the council or commission of any city or town having a corporate existence in this state, or hereafter organized under any of the laws thereof, shall deem it necessary to issue bonds *pledging the general credit of the municipality* for any purpose what-